Premier's Council on the Status of Persons with Disabilities

RECOMMENDATIONS FOR AN ALTERNATIVE COMMUNICATIONS SERVICE

PURPOSE OF THIS PAPER

In 1997, the Supreme Court of Canada made a human rights decision that potentially has implications for Alberta and the rest of Canada. In the Eldridge v. British Columbia case, the Court ruled that governments are required to fund interpreters for deaf people receiving medical services, including services from private providers such as doctors implementing programs on the government's behalf. The ruling sets a legal precedent for individuals to challenge the provision of interpreter services by governments across Canada.

Building upon past initiatives and in response to current concerns, an Interdepartmental Committee chaired by the Premier's Council on the Status of Persons with Disabilities has been working on the development of an alternative communication strategy for Alberta, with specific reference given to the provision of interpreter services. The purpose of this paper is to inform ministers about the Supreme Court decision and the Committee's work and to provide the following recommendations for a proactive response by the Alberta government:

- An appropriate level of interpreter services in the province will require an expansion of service and an increase in funding. The full impact of financial and human resource requirements by respective departments and funded agencies is difficult to determine as the balance between supply of interpreters and demand for services may lead to increasing demands for changes in policies and programs.

- An Alternative Communications Advisory Committee comprised of representatives from government departments and community stakeholders should be established to provide ongoing direction regarding the implementation of long-term comprehensive communication system for the deaf, hard-of-hearing and deaf-blind users of provincial government services across Alberta.

The paper explains the implications that the Eldridge decision has upon the provision of interpreter services provided or funded by the Alberta government. It then examines the situation in Alberta, including the number of Albertans affected and related accommodations made by the provincial government over the years. The paper concludes with a description of the Alternative Communications Advisory Committee, its roles and the costs involved. This is followed by an overview of the Interdepartmental Committee's work and findings. Names of the department represented on the Committee and a Model Working Committee are provided in an appendix, as are the names of stakeholders consulted.

ELDRIDGE V. BRITISH COLUMBIA

Equality rights are protected under the Canadian Charter of Rights and Freedoms and provincial human rights legislation across the country. Subsequently, within the context of the Eldridge decision, the Court found that the deaf appellants need sign language interpreters to communicate effectively with their doctors and other health care providers, and that the absence of interpreting services increase the risk of misdiagnoses and ineffective treatments.

Prior to these findings the province of British Columbia did not pay for sign language interpretation: That service was provided by a private institution. However, in 1990, the institution dropped the service due to a lack of funding, and the provincial government refused to provide funding to continue the program.

The Court ruled:

> _once the state does provide a benefit, it is obliged to do so in a non-discriminatory manner. In many circumstances, this will require governments to take positive action, for example by extending the scope of a benefit to a previously excluded class of persons_. (Para. 73)

THE SITUATION IN ALBERTA

The Supreme Court judgement has set a legal precedence for Alberta and the rest of Canada. Although the decision is narrow (provision of interpreter services in specific health settings), the implications for a broader based application should be considered. In other words what are the implications, if any, for the ruling to apply to any personal or technical support required by a person with a disability to access any service provided by a government or an agency receiving government funding. To establish a proactive comprehensive response to address the complexity of issues, it is important that future strategies extend beyond interpreter services for people who are deaf by including all communication services for people who hard of hearing and people who are deaf/blind.

In 1992, the Premier's Council developed a document entitled *Alternative Communications* to draw attention to the absence of clear policies addressing communication access for those with alternative communication needs. This document provided background information, listed issues to be resolved, and made recommendations to government departments in five areas:

(1) Government: Access to information.
(2) Justice System: Access to fair treatment
(3) Educational Resources: Access to appropriate materials and level of service
(4) Sign Language Interpreters: Access to qualified interpreters and
(5) Communication Technology: Access to adaptive communication technology.

However, many of the issues and recommendations remain fundamentally the same today as in 1992 when the document was first released. The recent Eldridge decision in the British Columbia Supreme Court has created an elevated awareness of the rights of individuals who require interpreter services and the responsibilities of governments to legally provide such services.

Number of Albertans affected

Approximately 2,000 Albertans have little or no hearing. About 1,000 of these live in Edmonton, 500 live in Calgary, and the rest are scattered throughout the province. An additional ten- percent of the population is hearing impaired, which means they experience some degree of hearing loss. Based on the 1994-95 statistics, this translates into 274,700 people. (The number of deaf/blind Albertans is not known.)

A distinction is often made between *deaf* and *Deaf*. The first term refers to the medical or audiological condition of having little or no hearing. *Deaf* with a capital refers to individuals who identify themselves as culturally Deaf and share culture, language (American sign) and community.

Historical Initiatives

Although the Alberta government has taken steps in recent years to improve services for people with hearing disabilities or limitations, many of the recommendations highlighted in the previous documents produced by the Premier's Council and Alberta Education require revisiting. Previous initiatives to address the issues and concerns for people requiring alternative communication services were:

1988. Alberta Education produced the document, *The Use of an Interpreter in an Educational Setting: Guidelines and Standards*, to assist school jurisdictions with the hiring and supervision of qualified interpreters in the school setting.

September 1992. The Premier's Council on the Status of Persons with Disabilities released a report entitled, *Alternative Communications – Issues and Strategies for People with Alternate Communication Needs*. The report indicated that the Alberta government did not have policies addressing communication access for persons needing alternate communication, and recommended access be improved in five areas: government, justice system, educational resources, sign language interpreters and communication technology.

January 1994. The Premier's Council produced the document, *Standards for Interpreting in Educational Settings in Early Childhood Services to Grade 12*, setting out standards for the educational system in Alberta.

January 1995. Cabinet distributed the *Alternative Communications Policy – Access to Government Documents, Public Meetings and Services* to all departments. This addresses the first recommendations from the September 1992 Alternative Communications document.

The policy read: *The Government of Alberta will ensure equitable access to the information intended for the general public in its publications, public meetings and services, to persons with alternative communications needs. Information will be provided within a reasonable time and at a cost that will not exceed that charged to persons without alternative communications needs. Information will be provided in the most cost-effective format possible to meet the communication need of the individual client.*

September 1995. Alberta Education produced a document, *Access to Government Publications, Meetings & Services – A Handbook for the Implementation of the Alberta Government's Alternative Communications Policy*. Its purpose was to increase awareness of alternative communications needs of persons with disabilities and to assist in implementing the policy.

May 1996. The Premier's Council on the Status of Persons with Disabilities conducted a review to determine to what extent the recommendations in the 1994 document were being implemented throughout Alberta. In their report, *Interpreting Standards in Education Settings – Implementation Review*, the reviewers concluded that, overall, the document was neither well used nor understood, particularly in small jurisdictions where many school boards were unaware of the standards or found them unrealistic. Recommendations for change were provided.

Funding Overview

For the past several years, interpreter services have been provided in Edmonton and Calgary supported by funds from Services for Persons with Disabilities under Alberta Family and

Social Services. In Calgary, a non-profit agency, Deaf and Hard of Hearing Services have provided the services. In Edmonton, more limited services have been provided by Alberta College. In March/2000, Connect Society, a not for profit group serving the needs of the deaf community in Edmonton, were contracted by Edmonton PDD to provide interpreter services.

When the decision was made to transfer responsibility for persons with developmental disabilities to PDD Boards, the funding for interpreter services in Calgary and Edmonton was also transferred to the respective Boards. However, the Boards' recent concerns about budget allocations has presented increasing challenges requiring clarification of roles and responsibilities pertaining to their funding of interpreter services.

Within Calgary, an agency continues to provide services; however, the issue of funding still needs to be resolved. In Edmonton, efforts are underway by Connect Society and other stakeholders to develop an interpreter service to address the needs of the Edmonton community. In other words, much of the groundwork has been completed to develop a more comprehensive service in Edmonton and services can be made available pending funding.

THE INTERDEPARTMENTAL COMMITTEE

In February 1998, the Premier's Council on the Status of Persons with Disabilities chaired a meeting with provincial government departments to discuss issues and concerns pertaining to the provincial government's ability to accommodate the communication needs of d/Deaf Albertans. The formation of an Interdepartmental Committee on Interpreter Services was recommended with senior representation from nine provincial government departments. Membership has grown over time. (A list of members is appended.)

Key Actions by the Committee

The Committee had taken three key actions. The outcomes of each are described below.

1. Reviewing the existing provisions for services to d/Deaf citizens and encouraging Alberta government departments and agencies to do the same.

   The Committee's review of the existing provisions drew the following **conclusions:**

   - **Staff are not aware of available services**. Government departments and agencies have provision to pay for interpreters, but because requests are intermittent, staff and consumers do not always have information about eligibility, costs and approval processes or the availability of interpreters.

   - **Provision is neither standardized nor adequate**. Some interpreter services are provided through the core services contract and others are on a fee-for-service basis. Costs of interpreter services may exceed the payment allowed for them, and there are gaps in the types of activities for which interpreters are available. Not for-profit agencies typically do not have budgets for interpreter services.

   - **It is not always clear who is responsible for what services**. For example, it is not clear whether school boards are responsible for providing interpreter services for deaf parents. Government departments do not clearly identify who is responsible for the purchase of amplification equipment. Note: As of the year 2000 Edmonton Public Schools do provide a centralized interpreting service for deaf parents for children registered with Edmonton Public Schools.

- **Access varies by location**. The further d/Deaf and hard-of-hearing people live from Edmonton or Calgary the less likely they are to have access to qualified interpreters and other alternative communication services.

- **Standards are inconsistent** with regard to service provision and the training and qualification of interpreters. There are other issues. For example, there are various modalities used in interpretation for deaf and hard of hearing people, for example (American Sign Language, signed English, oral interpretation, real time captioning.) Preferences regarding choice and usage differs between users. Creation and utilization of new technologies continue to impact the degree and nature of interpreter services.

- **People who are deaf and blind have additional needs**. There is a need to improve availability of intervenor services for persons who are both deaf and blind and require someone to act as their eyes and ears.

2. Held stakeholder consultation meeting with representatives from associations for the d/Deaf, agencies providing services to d/Deaf citizens, interpreters, educational institutions and a parent (See appendix for the list of participants.).

    - Following the September 1998 consultations with stakeholders, the Committee realized that the issue they were dealing with required expansion beyond of interpreter services and the d/Deaf community to encompass communication more generally and the hard-of-hearing and deaf-blind users. Consequently the Committee changed its name to the *Interdepartmental Committee on Communication Services.*

3. Created a Model Working Committee to provide recommendations back to the *Interdepartmental Committee on Communication Services* regarding a suitable framework for a proposed communication service. (A list of members is appended.)

Action Plan

The issues and concerns expressed by stakeholders in the deaf and hard of hearing and the deaf/blind community in Alberta are multifaceted and multi-dimensional and the priorities for action are as diverse as the needs within. The diversity of recommendations regarding the provision of alternative communication services highlights the need for continued consultation and collaboration between stakeholders and government.

A consensus regarding definition of alternative communications services and guiding principles is necessary before recommendations for action can be established.

Definition of Communication Services

Providing people who are deaf, hard of hearing or deaf/blind with the ability to interface with both government and non-government services to receive reliable information in an intelligible form and to gain effective access to all ***required government services.***

Guiding Principles

- That people who are deaf or hard of hearing have equitable access to all government services and information regardless of their disability or geographic location.

- That communication services be *client driven*, facilitating self-identification of needs, choice of services and the involvement of people who are deaf or hard of hearing in the development of policy.

- That standards for training and equipment be developed, implemented and monitored.

- That partnerships between governments, consumers, service providers and the private sector be encouraged in the provision of communication services.

Recommendation #1: Establish an Alternative Communications Advisory Committee

An Alternative Communication Services Committee must be established and recognized as an on-going conduit between community stakeholders and government departments. The committee would meet on a quarterly basis to allow sufficient time for respective departmental task/working groups to meet. With a lead role to be assumed by the Premier's Council with representation from key government departments and stakeholders representing people who are deaf, deaf/blind and hard of hearing, the committee will have the following roles:

- Provide ongoing recommendations to government regarding the establishment of an effective communications system to serve the deaf and hard of hearing and deaf/blind communities in Edmonton and Calgary;

- Develop a long-term strategy to extend communication services to other geographic locations across Alberta;

- Provide recommendations to ministries regarding the provision of interpreter services and the monitoring and evaluation of standards;

- Provide advice to government regarding the development of strategies to effectively publicize communication services policies and programs;

- Provide recommendations to government regarding the training for government employees dealing with people who are deaf and hard of hearing and deaf/blind; and

- Provide advice to government regarding the needs of hard of hearing and the deaf/blind communities being incorporated into a long-term alternative communications strategy.

* Financial and administrative support for the committee will require a shared commitment between ministries as respective issues and concerns are identified and addressed.

Recommendation #2: Departmental Task/Working Groups Develop Outcomes and Performance Indicators

Although issues impacting the deaf and hard of hearing community transcend across ministry mandates, it is necessary to address issues within respective departmental business plans. The department task/working groups will identify related outcomes and performance indicators regarding the development and implementation of policies, programs, goods and services regarding alternate communication services. Reports are to be submitted to the Alternative Communication Services Advisory Committee for approval and submission to ministries for inclusion in the business planning process.

Recommendation #3: Develop New Partnerships with Community Stakeholders.

New partnerships with community stakeholders for the provision of alternative communications services must be explored and adequately funded. Contracts with existing and new service providers should continue to utilize existing tendering/funding processes with current departments. However as government departments begin to address programs goods and services, new tendering processes may need to be established to effectively address stakeholder needs. It should be especially noted that adequate levels of funding for administrative costs must be determined for community stakeholders to effectively provide the required services. Upon approval, the service provider/contractor would provide the service to all-provincial government offices, provincially funded agencies and individual users on a fee for service basis for their communication needs when interacting with a provincial government body). As most community organizations are not funded to provide alternative communication services, requests to use the contracted service would need to be reviewed by the government, with advice provided by the Alternative Communications Advisory Committee.

New partnerships would need to address the following:

- The diversity of needs within the deaf and hard of hearing communities in Edmonton and Calgary must be respected in the design of services; (the needs of people who are deaf or hard of hearing living in rural communities may have to be met through partnerships with existing/new service providers).

- Routine inquiries concerning the provision of communication services be the first priority but that referrals to other services required by a deaf or hard of hearing person also be possible. Ideally, access would be possible in a number of ways: via telephone, fax messages or face-to-face contact.

- A full range of communication services must be considered, and that, wherever possible, modern technology be made available along with any required maintenance and technical support. There is a need for an equipment loan service.

- The acceptable response time in urban areas be two hours for any recognized emergency and one day for non-emergency services. Response times in rural areas will need to reasonably reflect local barriers.

- Within the context of professional services, guidelines for standards of service and qualifications of staff should require all interpreters to be members of a professional association and to have passed the Written Test of Knowledge (WTK). Standards for captioning should be *adequate and appropriate.*

- The charter of consumer rights be recognized as a framework to protect consumers, the service and contract employees.

- Continuing education and training opportunities be available to those involved in the delivery of services, including government employees and employees of government-funded institutions such as health authorities. Steps should be taken to make potential users aware of the communication services.

- Difficulties with the present message relay services be addressed as part of the overall service, and provision of the message relay service be seen as a fundamental right, not as an act of charity.

Recommendation#4: Immediate Funding Increase for Interpreter Services

- Assuming that existing funding levels are maintained, an increase of $400,000* must be allocated to address the immediate needs for interpreter services in Edmonton, Red Deer and Calgary

*These costs are initial projections only. Future financial projections impacting government departments and funded agencies will require further detailed assessment and ongoing consultation via the Alternative Communications Advisory Committee, as policies are developed and programs are implemented.

Reccomendation#5: Premier's Council Address Alternative Communication Services Within The Alberta Disability Strategy.

Alternative Communication Services will be addressed within the context of a broader Alberta Disability Strategy that will:

➢ Build consensus between the disability community and its governments on key directions and priorities.

Highlights:
- Common vision, principles and values
- Definition of specific outcomes to be pursued
- Immediate priorities that need attention

➢ Develop tools critical to the process of improving the status of persons with disabilities.

Highlights:
- A regular survey to monitor whether or not the situation is improving(and other measures)
- A Disability Lens that all governments can use to ensure that their acts, regulations , programs and services respect and include persons with disabilities
- Evaluation process to help align current disability initiatives with vision, principles, and outcomes
- An accountability program that monitors the performance of key agencies and organizations

➢ Generate Commitment to change/improvement

Highlights:
- Immediate changes with specific and tangible benefits
- Specific recommendations to improve supports, access to education, separate income and personal supports, employment, etc.
- Specific recommendations to key ministries related to their business plan priorities.
- Steps to increase accountability of all stakeholders to the common outcomes

CONCLUSION

Although the Eldridge decision was specific to the government responsibility to funding interpreters for deaf individuals requiring medical services, the ruling created a perceived platform for even broader challenges regarding the provision of interpreter services. Any subsequent decisions to proactively address government's legal and moral responsibility to provide interpreter services or any alternative communication services in Alberta must consider the following:

- The diverse philosophies, values, views and opinions expressed by community stakeholders regarding the most appropriate course of action and priorities.

- The urgent need for increased funding and immediate response for improved interpreter services in the major urban centres in Alberta.

- The need for government and their funded bodies to understand their current obligations and responsibilities regarding appropriate funding and provision of interpreter services.

- The difficulty for departments and government-funded agencies to determine an accurate financial forecast to adequately provide alternative communications services.

- The current reorganization of government departments and potential changes to mandates, policies, and programs have created an uncertainty with regards to accountability and responsibility for the immediate funding and provision of interpreter services.

The Premier's Council will continue to champion significant improvements in the status of persons with disabilities through its number one priority: The Alberta Disability Strategy. Alternative communication services will continue to be addressed by the Premier's Council within the context of the Alberta Disability Strategy through continued liaison with the Alternative Communication Services Advisory Committee.

Appendix: Members of the Interdepartmental Committee on Communication Services

Name	Department
Joanne Sasges	Alberta Learning
Terry Lind	Alberta Alcohol and Drug Commission
Eric Waterton	Alberta Community Development
Barbara Morgan McDermid	Alberta Learning
Alan Andrews	Edmonton Region PDD Community Board
Garry Donald	Family and Social Services
Dave Alexander	Alberta Health & Wellness
Andrew Turzansky	Human Rights and Citizenship Commission
Ken Kereliuk	Alberta Justice
Elaine Chapelle	Premier's Council
Tom Fowler	Premier's Council
Bryan Sandilands	Premier's Council
Peter Faid	Facilitator

Members of the Working Committee

Name	Association
Dr.Mike Rodda	Chair, Deaf Studies, U of A
Ian Kershaw	Deaf and Hard of Hearing Services
Leanne Walls	Grant MacEwan Interpreter Program
Terry Lind	Alberta Alcohol and Drug Commission
Barbara Morgan McDermid	Alberta Learning
Alan Andrews	Edmonton Region PDD Community Board
Tom Fowler	Premier's Council
Peter Faid	Facilitator

Participants in the Stakeholders' Meeting

Stakeholders

Name	Association
Don McCarthy	Alberta Association of the Deaf
Darlene Karran	Alberta Chapter of the Registry of Interpreters for the Deaf
Peter Zalucky	Alberta College – Sign Language Interpreter Service
Bev Matthiessen	Alberta Committee of Citizens with Disabilities
Diane Underschultz	Connect Society
Mike Rodda	Chair, Deaf Studies, U of A
Ian Kershaw	Deaf and Hard of Hearing Services
Lynn Broschak	Distinctive Employment Counseling Services of Alberta
Kirsty Stewart	Hearing Consultant, Edmonton Catholic Schools
Peter Haskins	Edmonton Deaf-Blind Society
Marie Haskins	Edmonton Deaf-Blind Society
Leanne Walls	Grant MacEwan Interpreter Program
Cindy Gordon	Hard of Hearing Resources Services and past Premier's Council member
Candy Carrier	Parent
Janice Plomp	Real-Time Captioner
Gail Estell	Signed English/ASL Interpreter (for parent)
Cheryl Meyer	Signed Language Interpreter
Jane Ropchan	Signed Language Interpreter

Department Representatives

Name	Department
Joanne Sasges	Advanced Education and Career Development
Terry Lind	Alberta Alcohol and Drug Commission
Eric Waterton	Community Development
Barbara Morgan McDermid	Education
Alan Andrews	Family and Social Services
Garry Donald	Family and Social Services
Dave Alexander	Health
Wendy Joy	Human Rights and Citizenship
Ken Kereliuk	Justice
Elaine Chapelle	Premier's Council
Tom Fowler	Premier's Council
Bryan Sandilands	Premier's Council
Peter Faid	Facilitator